

ORDINANCE 2013-16

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF FRUITA AND RONALD TIPPING, RODNEY POWER AND WILLIAM PATTERSON FOR THE LEASE OF WATER AND AUTHORIZING THE CONVEYANCE OF WATER RIGHTS IN MIRROR DITCH NO. 1 AND MIRROR LAKE RESERVOIR NO. 2 AND VACANT LAND LOCATED ON PINYON MESA IN MESA COUNTY, COLORADO

WHEREAS, the City of Fruita is the owner of land located on Pinion Mesa in the County of Mesa, State of Colorado, located immediately south of Enoch's Lake, and

WHEREAS, the City of Fruita is the owner of certain water rights located on Pinion Mesa, including water rights in Mirror Ditch No. 1 and Mirror Lake Reservoir #2 located in Mesa County, Colorado, and

WHEREAS, Ronald E. Tipping provided labor and materials in connection with repair work done on Fruita Reservoir No. 1 in 2009 in the amount of \$124,232.13 and also provided labor and materials in connection with repair work done on Mirror Lake Reservoir No. 1, also known as Enoch's Lake, in 2007 in the amount of \$360,531.91 for a total of \$484,764.04 in repair work, and

WHEREAS, in exchange for repair work completed by Tipping, the City of Fruita agrees to lease water to Tipping pursuant to the terms of an Agreement attached hereto as Exhibit A; convey water rights by special warranty deed attached hereto as Exhibit B; and convey land as outlined in red on the attached Exhibit C to Tipping pursuant to the terms of an agreement between the City of Fruita and Ronald Tipping, Rodney Power and William Patterson, and

WHEREAS, the property has not been used or held by the City of Fruita for park purposes or other governmental purposes, and

WHEREAS, pursuant to Section 2.11 of the Fruita City Charter, the Fruita City Council must, by ordinance, authorize the lease or conveyance of real property of the City, and

WHEREAS, it is the intent of this ordinance to authorize the City Manager to execute the agreement, deeds and other necessary documents to lease water, convey water rights and convey vacant land owned by the City of Fruita to Ronald Tipping and others as outlined in the attached Exhibits.

NOW, THEREFORE, THE CITY OF FRUITA HEREBY ORDAINS AS FOLLOWS:

Section 1: The City Manager is hereby authorized to finalize and execute the Agreement attached hereto as Exhibit A and any documents necessary to convey water rights as outlined in Exhibit A and described in the Special Warranty Deed attached hereto as Exhibit B and to convey land as pursuant to the agreement (Exhibit A) and as outlined in red, or as otherwise modified per the contract, on the map attached hereto as Exhibit C.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
ON THE __ DAY OF _____, 2013.**

City of Fruita

Mayor Lori Buck

ATTEST:

City Clerk

ORDINANCE 2013-16 – EXHIBIT A

AGREEMENT

This Agreement is entered into effective _____, 2013, by and between Ronald E. Tipping, 1967 Broadway, Grand Junction, CO 81507 (“Tipping”), Rodney C. Power, P.O. Box 1329, Grand Junction, CO 81502 (“Power”) and William R. Patterson, 668 26 Road, Grand Junction, CO 81506 (“Patterson”) and the City of Fruita, Colorado, 325 East Aspen, Fruita, CO 81521 (“Fruita”).

RECITALS

A. Tipping provided labor and materials in connection with repair work done on Fruita Reservoir No. 1, owned by Fruita. The repair work done by Tipping was completed in 2009 and shall be referred to herein as the “Reservoir No. 1 Repair Work.” A summary of the materials claimed to have been provided by Tipping for the Reservoir No. 1 Repair Work is attached hereto as Exhibit A.

B. Tipping also provided labor and materials in connection with repair work done on Mirror Lake Reservoir No. 1, also known as Enoch’s Lake, owned by Fruita. The repair work done by Tipping was completed in 2007 and shall be referred to herein as the “Enoch’s Lake Repair Work.”

C. Tipping and Fruita entered into an Agreement dated February 7, 2007, regarding the Enoch’s Lake Repair Work and the compensation to be paid to Tipping for that work (“2007 Enoch’s Lake Agreement”).

D. Fruita agrees to compensate Tipping for the Reservoir No. 1 Repair Work and the Enoch’s Lake Repair Work, and Tipping agrees to accept such compensation, on the terms set forth herein.

E. Tipping, Power and Patterson jointly own real property that is benefitted by and affected by the terms of this Agreement and Power and Patterson desire to enter into this Agreement on the terms set forth herein.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tipping, Power, Patterson and Fruita agree as follows:

1. Definitions. As used in this Agreement:

A. “Fruita Reservoir No. 1” means the reservoir known as Fruita Reservoir No. 1 and the water rights decreed to be stored in such reservoir. Fruita Reservoir No. 1 is owned by Fruita.

B. “Mirror Ditch No. 1” means the water right adjudicated to Mirror Ditch No. 1 by decree entered on July 25, 1941, in C.A. 5812, Mesa County District Court, in the amount of 11.0 c.f.s. of water for irrigation and domestic purposes, with Ditch Priority No. 596C. This water right was included on the 2010 Abandonment List that was prepared pursuant to

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C.R.S. 37-92-401 et seq., and as a result of that abandonment list proceeding, 8.0 c.f.s. of the water right has been determined to be abandoned, leaving a remaining amount of 3.0 c.f.s. that has not been determined to be abandoned.

C. “Mirror Lake Reservoir No. 1” or “Enoch’s Lake” means the reservoir known as Mirror Lake Reservoir No. 1, commonly known as Enoch’s Lake, and the water rights decreed to be stored in such reservoir. Mirror Lake Reservoir No. 1 is owned by Fruita and is located on real property owned by Fruita.

D. “Mirror Lake Reservoir No. 2” means the water right adjudicated to Mirror Lake Reservoir No. 2 by decree entered on July 25, 1941, in C.A. 5812, Mesa County District Court, in the amount of 8.34 acre feet of water for irrigation and domestic purposes, with Reservoir Priority No. 1070.

E. “Springs R and N” mean springs which flow into the tributary from which Mirror Ditch No. 1 diverts. The approximate coordinates for the location of Springs R and N are N. 38° 51.708’, W. 108° 42.622’. The location of Springs R and N is shown on Exhibit B, attached hereto. The parties agree that Springs R and N are located at or near Headgate No. 1 (defined below) and provide a source of supply for Mirror Ditch No. 1 at Headgate No. 1.

F. “Headgate No. 1” means Headgate No. 1 of the Mirror Ditch No. 1 as depicted on the Map of the Mirror Lake Reservoirs 1 & 2, Mirror Ditches 1 & 2, and Mirror Spring, filed with the office of the Colorado State Engineer at Filing No. 16218 and recorded in the records of Mesa County, Colorado at Reception No. 320071.

2. Repair Work Cost. Tipping and Fruita agree that the total costs of the Reservoir No. 1 Repair Work and the Enoch’s Lake Repair Work incurred by Tipping wereas follows:

Reservoir No. 1 Repair Work	\$124,232.13
Enoch’s Lake Repair Work	<u>\$360,531.91</u>
TOTAL	\$484,764.04

The total amount of the costs for the Reservoir No. 1 Repair Work and the Enoch’s Lake Repair Work (\$484,764.04) shall be referred to in this Agreement as the “Repair Work Cost.” The Repair Work Cost shall bear interest at the rate of four percent (4%) per annum from the dates the repair work was completed until the Repair Work Cost has been paid in full, in the manner set forth in this Agreement.

3. Compensation for Repair Work Cost. Fruita shall compensate Tipping for the Repair Work Cost in the following manner:

A. Fruita shall convey ownership of one and one-half (1.5) c.f.s. of water from the Mirror Ditch No. 1 to Tipping by special warranty deed, in a form acceptable to Tipping, in exchange for a credit of \$50,000.00 against the Repair Work Cost and accrued interest. This 1.5 c.f.s. shall be conveyed to Tipping free and clear of all liens and encumbrances

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arising by, through or under Fruita. This 1.5 c.f.s. shall be the first 1.5 c.f.s. available to be diverted in priority by the Mirror Ditch No. 1, shall be a portion of the 3.0 c.f.s. that was not abandoned as part of the 2010 Abandonment List proceeding, and shall principally be the water flowing from Springs R and N. The parties agree that Springs R and N are located approximately at the location of Headgate No. 1. In addition, to the extent the facilities necessary for Tipping to divert, divide and transport the water from this 1.5 c.f.s. are located on real property owned by Fruita, the special warranty deed shall convey an easement to Tipping for the construction, reconstruction, operation, maintenance and repair of such facilities. Tipping shall consult with Fruita before constructing any new facilities within this easement and provide plans for the facilities for Fruita's review and approval. Such approval shall not be unreasonably withheld.

B. Fruita shall convey Mirror Lake Reservoir No. 2 to Tipping by special warranty deed, in a form acceptable to Tipping, in exchange for a credit of \$25,000.00 against the Repair Work Cost and accrued interest. This water right shall be conveyed to Tipping free and clear of all liens and encumbrances arising by, through or under Fruita.

C. Fruita shall convey to Tipping, by general warranty deed, real property located immediately south of Enoch's Lake in exchange for a credit against the Repair Work Cost and accrued interest, all as set forth in Paragraph 4, below.

D. Fruita shall compensate Tipping for the remainder of the Repair Work Cost, together with accrued interest, in the manner set forth in Paragraph 5, below.

4. Conveyance of Enoch's Lake Property.

A. Fruita owns the real property upon which Enoch's Lake is located. This real property is identified by Mesa County Assessor Parcel No. 3223 - 082-00-944 (the "Enoch's Lake Property").

B. Fruita shall convey the southern portion of the Enoch's Lake Property (referred to herein as the "Southern Portion" of the Enoch's Lake Property) to Tipping in exchange for a credit against the Repair Work Costs. Fruita shall cause the Southern Portion of the Enoch's Lake Property to be surveyed at its expense, and shall leave a buffer of approximately one hundred feet along the southern shores of Enoch's Lake to be retained by Fruita. The parties anticipate that the Southern Portion of the Enoch's Lake Property will be between thirty and thirty-five acres in area. Fruita shall take all actions to subdivide the Southern Portion of the Enoch's Lake Property from the remainder of the Enoch's Lake Property and shall bear all costs of such subdivision. At Fruita's request, Tipping shall cooperate in a boundary line adjustment to add the Southern Portion of the Enoch's Lake Property to adjoining property owned by Tipping as an alternative to subdividing the property and creating a separate parcel. Fruita shall commence the subdivision or boundary line adjustment process promptly after the effective date of this Agreement and shall use diligent efforts to complete the process as soon as reasonably possible.

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C. Fruita shall be entitled to a credit of \$4,000.00 per acre against the Repair Work Cost for the Southern Portion of the Enoch's Lake Property that is conveyed to Tipping. The area of the Southern Portion shall be determined by the survey that Fruita performs pursuant to Paragraph 4.B. above.

D. If the Southern Portion of the Enoch's Lake Property is subdivided from the remainder of the Enoch's Lake Property, Fruita shall convey the Southern Portion to Tipping by general warranty deed, free and clear of all liens and encumbrances. If the parties agree to use a boundary line adjustment to convey the Southern Portion of the Enoch's Lake Property to Tipping, it shall be accomplished in a manner and using deeds consistent with Mesa County land use regulations, but the property shall be conveyed to Tipping free and clear of all liens and encumbrances.

5. Compensation for Remainder of Repair Work Cost.

A. The remainder of the Repair Work Cost, after applying the credits identified in Paragraphs 3 and 4 above, together with accrued interest, shall be paid by Fruita to Tipping by the release of water from Enoch's Lake or other reservoirs owned by Fruita (collectively, "Reservoir Water") for Tipping's benefit, in the manner provided in this Paragraph 5.

B. Tipping shall request a minimum release of at least one hundred (100) acre feet of Reservoir Water per water year. A water year shall run from November 1 of one year through October 31 of the following year. Tipping shall from time to time during the water year notify Fruita of when he wants the water released and the rate at which he wants it released. Fruita shall provide Tipping with the name and contact information of the Fruita representative who has authority to deal with Tipping on Reservoir Water releases, and shall promptly notify Tipping of any changes in the representative or the contact information of such person. Tipping shall also be entitled to request releases of Reservoir Water for the benefit of Power and Patterson, or either of them, from time to time. Any releases of Reservoir Water for the benefit of Power and Patterson shall be credited against the amount due from Fruita to Tipping as set forth in this Paragraph 5. References in this Paragraph 5 to releases requested by Tipping or releases to or for the benefit of Tipping shall include releases made for the benefit of Power and/or Patterson.

C. Subject to the provisions of Paragraph 5.D., below, the Reservoir Water shall be released from Enoch's Lake. Fruita will use its best efforts to release the water from Enoch's Lake at the times and rates requested by Tipping, provided, however, that Fruita shall be entitled to release the water at different times and rates if there is a valid operational reason to do so, subject to the remaining provisions of this Paragraph 5.

D. Tipping and Fruita may mutually agree during a water year to release some or all of the Reservoir Water from other reservoirs owned by Fruita rather than from Enoch's Lake. The agreement to release Reservoir Water from other reservoirs shall include the identification of the reservoir from which the releases will be made and the times and rates at

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which the releases will be made. Fruita shall make the releases at the times and rates and from the reservoir to which Fruita and Tipping have agreed.

E. Fruita shall be entitled to a credit against the remaining Repair Work Cost and accrued interest in the amount of One Hundred Eighty-Five Dollars (\$185.00) per acre foot of Reservoir Water released during a water year at the request of Tipping. If Tipping does not request the minimum release of one hundred acre feet during a water year, Fruita shall nevertheless be entitled to a credit of \$18,500.00 (one hundred acre feet times \$185.00 per acre foot) for that year. All credits shall be applied first to accrued interest with the remainder to the remaining principal balance of the Repair Work Cost.

F. If Fruita cannot release the full minimum requirement of one hundred acre feet of Reservoir Water to Tipping during a water year because of water shortages, issues with the reservoirs or any other reasons, then the deficiency (the difference between one hundred acre feet and the amount actually released at the rate of \$185.00 per acre foot) shall not be credited against the amount due from Fruita to Tipping for that water year.

G. The parties agree that from 2009 through 2012, Fruita has released 556.1 acre feet of Reservoir Water to Tipping, and that Fruita shall be entitled to a credit against the Repair Work Cost and accrued interest for such water, at the rate of \$185.00 per acre foot.

H. Fruita shall be responsible for installing and maintaining measuring devices that will accurately measure all Reservoir Water released for Tipping. Fruita shall measure all Reservoir Water released for Tipping, shall maintain accurate records of the amount of Reservoir Water released for Tipping, and shall make such records available for inspection by Tipping during normal business hours upon request by Tipping.

I. Fruita shall maintain a spreadsheet that shows the balance of the Repair Work Cost and accrued interest that is due to Tipping. A copy of that spreadsheet, showing the allocation of Repair Work Costs, interest and credits through 2012, is attached to this Agreement as Exhibit C. The parties agree that cost accruals, interest accruals and credits shall be done on an annual basis, as shown on Exhibit C, and that the costs, interest and credits shown on Exhibit C are accurate through 2012. The credits described in Paragraphs 3.A., 3.B., and 4.C. above shall be applied on the spreadsheet in the year in which those property interests are conveyed to Tipping. Exhibit C shows credits based on releases of 100 acre feet of Reservoir Water per year for 2013 and subsequent years for illustrative purposes. If greater amounts of Reservoir Water are released in a water year, Fruita shall be entitled to a credit based on the actual amount released. Fruita shall provide a copy of an updated spreadsheet to Tipping each year within thirty days after the end of the water year. If Tipping disagrees with any amounts shown on the spreadsheet for that water year, he shall promptly contact Fruita and the parties will work in good faith to resolve the disagreement.

6. Conveyance of Property Interests.

A. Promptly after the effective date of this Agreement, Fruita shall deliver to Tipping fully executed and acknowledged special warranty deeds, consistent with the

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requirements of Paragraphs 3.A. and 3.B., above, conveying the water rights and property interests described in those paragraphs.

B. If the Southern Portion of the Enoch's Lake Property is subdivided from the remainder of the Enoch's Lake Property, Fruita shall deliver to Tipping a fully executed and acknowledged general warranty deed, consistent with the requirements of Paragraph 4, above, promptly after the final subdivision plat is recorded. If the parties use a boundary line adjustment to convey the Southern Portion, the Southern Portion shall be conveyed at a time and in a manner consistent with Mesa County land use regulations governing boundary line adjustments.

7. Other Obligations of the Parties.

A. Promptly after the execution of this Agreement, Fruita and Tipping shall coordinate to design a splitter structure to be placed in the pipeline that leads from Springs R and N. This structure will be designed to deliver the first 1.5 c.f.s. of water in that pipeline, diverted from Springs R and N and Headgate No. 1, to Tipping, with the remainder, if any, staying in the pipeline to be delivered to Fruita. After the splitter structure is designed, Tipping shall construct it at his cost and expenses. Tipping shall also be entitled to construct a pipeline at his cost and expense from that splitter structure to adjacent property owned by him. To the extent that the splitter structure and pipeline are located on real property owned by Fruita, Tipping shall be entitled to construct, operate, repair and maintain the splitter structure and pipeline pursuant to the easement described in Paragraph 3.A. above. Tipping shall also be entitled to operate, repair, reconstruct and maintain the diversion structure located at Springs R and N and the pipeline running from that structure to the splitter structure to ensure that he is able to get his 1.5 c.f.s. of water from Springs R and N and Headgate No. 1.

B. Water in addition to that produced by Springs R and N and collected at Headgate No. 1 seeps from the hillside near those springs and flows naturally to Mirror Lake Reservoir No. 2, located to the northeast of Springs R and N. The parties agree that neither of them will construct any structures to divert or collect this water without the consent of both parties and will allow it to flow in its natural course to Mirror Lake Reservoir No. 2.

C. Water is periodically spilled from the spillway of Enoch's Lake by Fruita. This water, once spilled, flows in a northeasterly direction towards Springs R and N and Mirror Lake Reservoir No. 2. The parties agree that Fruita shall be entitled to divert and collect this water that is spilled from Enoch's Lake, and that Tipping shall make no claim to this water to the extent that Fruita desires to divert and collect it.

8. 2007 Enoch's Lake Agreement Superseded. This Agreement replaces and supersedes the 2007 Enoch's Lake Agreement. The 2007 Enoch's Lake Agreement is hereby terminated.

9. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be personally delivered with receipt taken therefor, or sent by certified mail, postage prepaid and return receipt requested, directed to the intended party at

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the address set forth in the introductory paragraph of this Agreement, or at such other address as may be designated by notice given to the other party in the manner set forth above. Notices shall be effective upon receipt (if personally delivered) or three business days after mailing (if mailed). Notices given to Fruita shall be directed to the attention of the City Manager except for notices given under Paragraph 5.B., above, which shall be given to the Fruita representative who has authority to deal with Tipping on Reservoir Water releases.

10 Additional Provisions.

A. This Agreement is binding on and inures to the benefit of the parties and their heirs, successors and assigns. Each person signing this Agreement represents that he is authorized and empowered to sign on behalf of and bind the party on whose behalf this Agreement has been executed.

B. The parties acknowledge that Tipping and Power and Patterson currently have separate contractual arrangements between them relating to their real property interests and the benefits they obtain under this Agreement, and that they may revise those arrangements and enter into new arrangements between and among themselves in the future. However, such arrangements are between Tipping, Power and Patterson, and those arrangements shall not modify the rights and obligations of Fruita under this Agreement unless Fruita expressly agrees in writing to such modification.

C. This Agreement supersedes any and all prior agreements, written and oral, between the parties and constitutes the complete and entire agreement of the parties.

D. The paragraph headings are for convenience only and the substantive portions hereof control without regard to the headings.

E. This Agreement shall be modified by writing only, which writing must be executed by the parties hereto in order to be effective.

F. This Agreement shall be governed under, and construed pursuant to, the laws of the State of Colorado.

G. Failure of either party to enforce any provision of this Agreement shall not act as a waiver to prevent enforcement of the same provisions at some later time.

H. This Agreement was produced as a result of negotiations between the parties and should not be construed against either party as the drafter of this Agreement.

I. This Agreement shall be effective on the last date it is signed by the parties.

J. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, via hand, mail, facsimile, or electronic mail, shall be deemed to be an original, but all such counterparts shall together constitute one and the same

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Agreement. Signatures to this Agreement sent by facsimile or electronic mail transmission shall be fully binding and effective for all purposes.

In witness whereof, the parties have executed this Agreement effective as of the date set forth above.

Ronald E. Tipping

Rodney C. Power

William R. Patterson

CITY OF FRUITA, COLORADO

By: _____
Lori Buck
Mayor

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STATE OF COLORADO)
) ss.
COUNTY OF M E S A)

The foregoing agreement was acknowledged before me this day of ,2013, by Ronald E. Tipping, Rodney C. Power and William R. Patterson.

WITNESS my hand and official seal.

My Commission Expires:_____

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF M E S A)

The foregoing agreement was acknowledged before me this day of ,2013, by Clinton M. Kinney, as City Manager of the City of Fruita, Colorado.

WITNESS my hand and official seal.

My Commission Expires:_____

Notary Public

TIPPING AGREEMENT - EXHIBIT A

**Grand Junction Concrete Pipe Company
Summary
Fruita Dam #1**

Construction Materials from Grand Junction Pipe and Supply

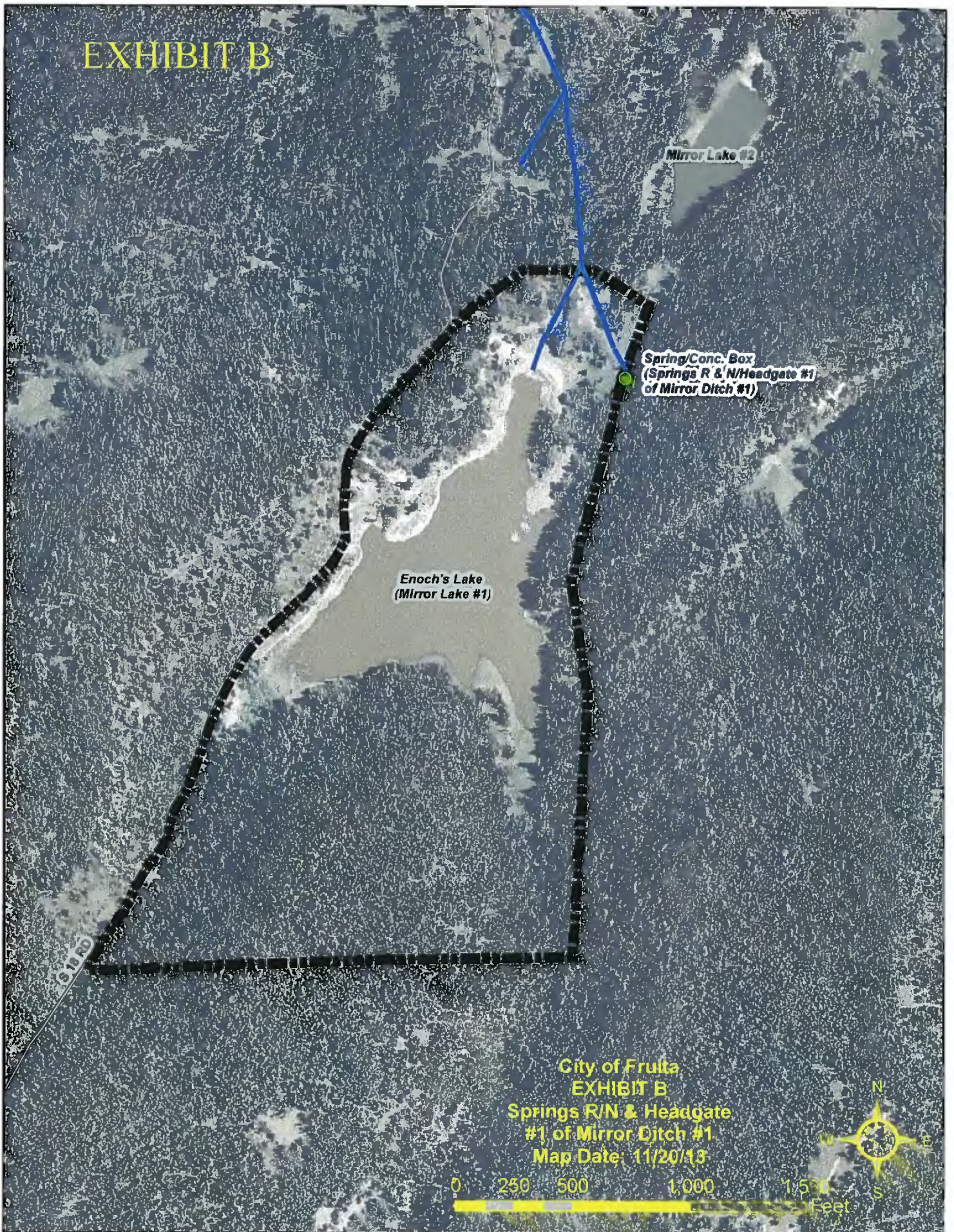
Ready Mix Concrete	\$ 13,863.51
Sand and Gravel	83,884.66
Other Finished goods	23,908.75

Materials from other vendors	2,575.21
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Total Costs Incurred	\$ 124,232.13
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TIPPING AGREEMENT - EXHIBIT B

EXHIBIT B



City of Fruita
EXHIBIT B
Springs R/N & Headgate
#1 of Mirror Ditch #1
Map Date: 11/20/13

0 250 500 1,000 1,500 Feet

TIPPING AGREEMENT - EXHIBIT C

EXHIBIT C				
TIPPING AGREEMENT				
AMORTIZATION SCHEDULE				
	Year*	Billing	4% Interest	Balance
				\$ 484,764.04
1	2008-2009	\$ (18,500.00)	\$ 19,390.56	485,654.60
2	2010	(18,500.00)	19,426.18	486,580.79
3	2011	(18,500.00)	19,463.23	487,544.02
4	2012	(47,378.50)	19,501.76	459,667.28
5	2013	(18,500.00)	18,386.69	459,553.97
6	2014	(18,500.00)	18,382.16	459,436.13
6A*	2014	(195,000.00)		264,436.13
7	2015	(18,500.00)	10,577.45	256,513.57
8	2016	(18,500.00)	10,260.54	248,274.12
9	2017	(18,500.00)	9,930.96	239,705.08
10	2018	(18,500.00)	9,588.20	230,793.28
11	2019	(18,500.00)	9,231.73	221,525.01
12	2020	(18,500.00)	8,861.00	211,886.02
13	2021	(18,500.00)	8,475.44	201,861.46
14	2022	(18,500.00)	8,074.46	191,435.91
15	2023	(18,500.00)	7,657.44	180,593.35
16	2024	(18,500.00)	7,223.73	169,317.08
17	2025	(18,500.00)	6,772.68	157,589.77
18	2026	(18,500.00)	6,303.59	145,393.36
19	2027	(18,500.00)	5,815.73	132,709.09
20	2028	(18,500.00)	5,308.36	119,517.46
21	2029	(18,500.00)	4,780.70	105,798.16
22	2030	(18,500.00)	4,231.93	91,530.08
23	2031	(18,500.00)	3,661.20	76,691.28
24	2032	(18,500.00)	3,067.65	61,258.94
25	2033	(18,500.00)	2,450.36	45,209.29
26	2034	(18,500.00)	1,808.37	28,517.67
27	2035	(18,500.00)	1,140.71	11,158.37
28	2036	(18,500.00)	446.33	(6,895.29)

Year* - Year indicates year ending October 31 of the year stated

6A Estimated application of credits per assumptions page

 Blue highlighted area represents actual numbers

 Green highlighted area represents estimates

ORDINANCE 2013-16 – EXHIBIT B

SPECIAL WARRANTY DEED

THIS DEED is dated _____, 2013 and is made between the City of Fruita, Colorado, a home rule municipal corporation, the “Grantor”, whose legal address is 325 East Aspen, Fruita, Colorado 81521 of the County of Mesa and State of Colorado, and Ronald E. Tipping, the “Grantee,” whose legal address is 1967 Broadway, Grand Junction, Colorado 81507 of the County of Mesa and State of Colorado.

WITNESS, that the Grantor, for and in consideration of the sum of TEN DOLLARS, (\$ 10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto the Grantee and the Grantee’s heirs and assigns forever, all the real property, and water rights, located in the County of Mesa and State of Colorado, described as follows:

1. One and one half (1.5) c.f.s. of water from the Mirror Ditch No. 1, a water right adjudicated to Mirror Ditch No. 1 by decree entered on July 25, 1941, in C.A. 5812, for irrigation and domestic purposes, with Ditch Priority No. 596C. Said 1.5 c.f.s. of water shall be the first 1.5 c.f.s. available to be diverted in priority by the Mirror Ditch No. 1.

Together with a perpetual non-exclusive easement for the purpose of construction, reconstruction, operation, maintenance and repair of facilities necessary to divert, divide and transport the water described above. Grantee shall consult with Grantor prior to constructing any new facilities within such easement and provide plans for such facilities for Grantor’s review and approval. Such approval shall not be unreasonably withheld.

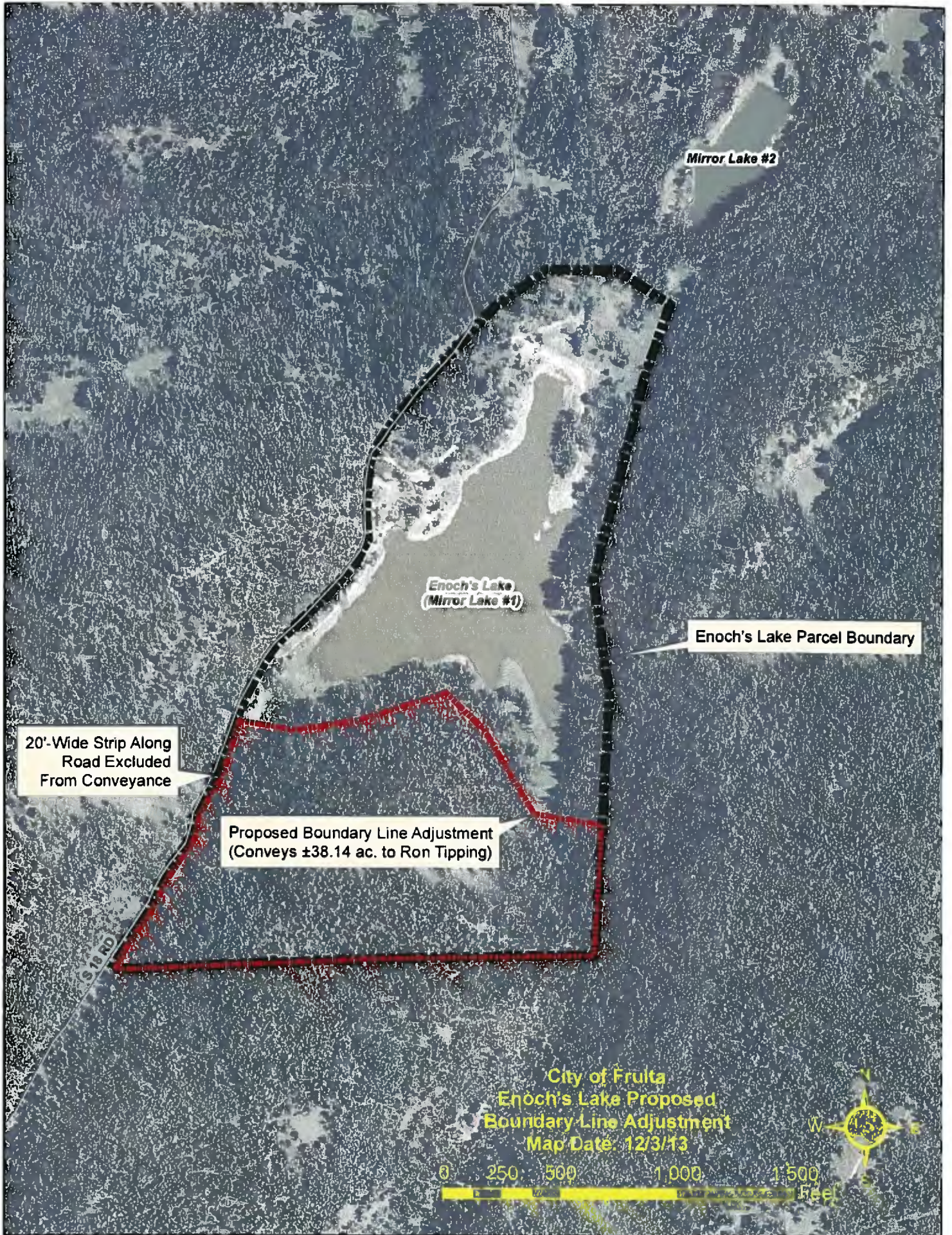
2. Mirror Lake Reservoir No. 2, meaning the water right adjudicated to Mirror Lake Reservoir No. 2 by decree entered on July 25, 1941, C.A. 5812, Mesa County District Court, in the amount of 8.34 acre feet of water for irrigation and domestic purposes, with Reservoir Priority No. 1070.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said rights above bargained and described, with the appurtenances, unto the Grantee and the Grantee’s heirs and assigns forever. The Grantor, for the Grantor and the Grantor’s successors and assigns, does covenant and agree that the Grantor shall and will **WARRANT THE TITLE AND DEFEND** the above described rights, in the quiet and peaceable possession of the Grantee and the heirs and assigns of the Grantee, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor except and subject to: NONE.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

CITY OF FRUITA, COLORADO, a home rule municipal corporation, acting by and through its City Council



Mirror Lake #2

Enoch's Lake
(Mirror Lake #1)

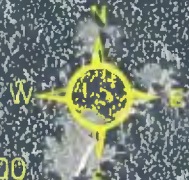
Enoch's Lake Parcel Boundary

20'-Wide Strip Along
Road Excluded
From Conveyance

Proposed Boundary Line Adjustment
(Conveys ±38.14 ac. to Ron Tipping)

S 18 RD

City of Fruita
Enoch's Lake Proposed
Boundary Line Adjustment
Map Date: 12/3/13



ORDINANCE 2013-16 EXHIBIT C (PAGE 2) (REVISED 12/2/13)

A parcel of land located in portions of Sections 7 & 8, Township 14 South, Range 101 West of the 6th Principal Meridian, Mesa County, Colorado and being more particularly described as follows:

Commencing at the West Quarter ($W_{1/4}$) Corner of Section 8, whence the South sixteenth corner on the West line of Section 5 bears North $01^{\circ}22'28''$ East, a distance of 3850.40 feet for a basis of bearings, with all bearings contained herein relative thereto;

thence North $01^{\circ}22'28''$ East, a distance of 1283.37 Feet to the calculated position of North Sixteenth ($N_{1/16}$) corner on the West line of said Section 8, the POINT OF BEGINNING; thence South $89^{\circ}09'00''$ West, a distance of 1153.13 Feet, along the South line of the Northeast Quarter of the Northeast Quarter ($NE_{1/4}$ $NE_{1/4}$) of Section 7; thence along the following (17) courses:

- (1) North $26^{\circ}42'24''$ East, a distance of 48.54 feet;
- (2) North $30^{\circ}22'24''$ East, a distance of 77.78 feet;
- (3) North $37^{\circ}08'08''$ East, a distance of 84.20 feet;
- (4) North $38^{\circ}00'21''$ East, a distance of 70.96 feet;
- (5) North $28^{\circ}42'56''$ East, a distance of 53.31 feet;
- (6) North $26^{\circ}48'03''$ East, a distance of 63.34 feet;
- (7) North $29^{\circ}50'44''$ East, a distance of 53.42 feet;
- (8) North $35^{\circ}29'18''$ East, a distance of 111.53 feet;
- (9) North $39^{\circ}09'07''$ East, a distance of 67.11 feet;
- (10) North $24^{\circ}19'57''$ East, a distance of 31.67 feet;
- (11) North $11^{\circ}56'52''$ East, a distance of 54.81 feet;
- (12) North $15^{\circ}19'29''$ East, a distance of 43.33 feet;
- (13) North $30^{\circ}43'42''$ East, a distance of 62.50 feet;
- (14) North $31^{\circ}41'28''$ East, a distance of 42.62 feet;
- (15) North $33^{\circ}05'15''$ East, a distance of 79.44 feet;
- (16) North $19^{\circ}05'32''$ East, a distance of 248.85 feet;
- (17) North $25^{\circ}27'01''$ East, a distance of 4.72 feet; thence South $79^{\circ}37'16''$ East, a distance of 236.71 feet; thence North $82^{\circ}46'13''$ East, a distance of 268.23 feet; thence North $73^{\circ}53'01''$ East, a distance of 399.60 feet; thence South $43^{\circ}38'22''$ East, a distance of 227.48 feet; thence South $28^{\circ}55'52''$ East, a distance of 418.36 feet; thence South $79^{\circ}57'10''$ East, a distance of 299.25'; thence South $05^{\circ}03'00''$ West, a distance of 559.47 feet; thence North $89^{\circ}24'59''$ West, a distance of 895.17 feet, along said South line of $NW_{1/4}$ $NW_{1/4}$ of Section 8 to the POINT OF BEGINNING.

Said parcel having an area of 38.14 Acres and a perimeter of 5655.54', as described.